

MEMORANDUM

September 13, 2016

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz , Senior Legislative Analyst
SUBJECT: Public Hearing – Zoning Text Amendment 16-13, Conditional Use – Screening

Zoning Text Amendment (ZTA) 16-13, lead sponsor Council President Floreen at the request of the Office of Zoning and Administrative Hearings, was introduced on August 2, 2016. ZTA 16-13 would exempt single-family detached houses from most of the detailed screening standards for Conditional Uses, except for compatibility.

The Hearing Examiner found that the detailed screening standards are never actually applied to applications for a conditional use in a detached house. In the opinion of the Hearing Examiner, it is misleading to the public to have statutory standards that are never appropriate to apply in a class of cases.

The Planning Department routinely recommends common sense compatibility standards in applications concerning detached houses through the use of waivers or alternative compliance. Waivers of parking facility standards are permitted under §59.6.2.10. Alternative compliance is permitted under §59.6.8. The Hearing Examiner has authority under §7.1.3.E.1.b to apply Article 59-6 only “to the extent the Hearing Examiner finds necessary to ensure compatibility.”

The Hearing Examiner believes that the current code leads to much more verbiage than necessary. Planning Department Staff must justify applications for waivers and alternative compliance. The Hearing Examiner then feels obliged to address all this analysis in their reports.

The Council conducted a public hearing on September 13, 2016.

Issues

Can ZTA 16-13 be made less contradictory?

Lines 46 to 50 of ZTA 16-13 as introduced read as follows:

All conditional uses must have screening that ensures compatibility with the surrounding neighborhood. The conditional use standards under Article 59-3 may exempt the development from this requirement.

The first sentence affects all conditional uses, but the second sentence notes that the first sentence is not all-inclusive. Staff recommends revising the two sentences to read:

Unless waived or approved under an alternative method of compliance in Article 59-6, all conditional uses must have screening that ensures compatibility with the surrounding neighborhood.

Should the Hearing Examiner have the authority to require both more and less screening than required by the Zoning Ordinance?

Lines 63 to 65 of ZTA 16-13 as introduced read as follows:

The Hearing Examiner may increase or decrease the amount of screening required for conditional use approval under Section 7.3.1.

The code already provides that the general requirements of Article 59-6 are applied “to the extent the Hearing Examiner finds necessary to ensure compatibility” (59-7.3.1.E.1.b.). Staff does not recommend adding the term “or decrease”, since the situation is already covered.

This Packet Contains
ZTA 16-13

© number
1 – 5

Zoning Text Amendment No.: 16-13
Concerning: Conditional Use –
Screening
Draft No. & Date:
Introduced: August 2, 2016
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Floreen at the Request of the
Office of Zoning and Administrative Hearings

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the provisions for exempted parking design requirements for residential buildings;
- determine when the landscaping, lighting and screening requirements for parking associated with residential zones and uses apply; and,
- generally amend design requirements for residential uses.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code effective October 30, 2014:

DIVISION 6.2.	“Parking, Queuing, and Loading”
Section 6.2.5.	“Vehicle Parking Design Standards”
Section 6.2.9.	“Parking Lot Landscaping and Outdoor Lighting”
DIVISION 6.5.	“Screening Requirements”
Section 6.5.2.	“Applicability”
Section 6.5.3.	“Screening Requirements”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance

1 **Sec. 1. DIVISION 59-6.2 is amended as follows:**

2 **Division 6.2. Parking, Queuing, and Loading**

3 * * *

4 **Section 6.2.5. Vehicle Design and Parking Standards**

5 **A. Building Type Exemptions**

6 The vehicle parking design standards under Section 6.2.5.D, [and] Section
7 6.2.5.F through Section 6.2.5.H, and Section 6.2.5.K.2.b do not apply to a:

- 8 1. detached house;
- 9 2. duplex; or
- 10 3. townhouse that provides parking on individual lots.

11 * * *

12 **Section 6.2.9. Parking Lot Landscaping and Outdoor Lighting**

13 **A. Applicability**

14 Section 6.2.9. applies to any:

- 15 1. surface parking lot with 10 or more spaces;
- 16 2. structured parking facility; or
- 17 3. property with a conditional use requiring [3] 5 to 9 spaces that abuts
18 an Agricultural, Rural Residential, or Residential Detached zoned
19 property that is vacant or improved with an agricultural or residential
20 use.

21 **B. Parking Lot Requirements for Conditional Uses Requiring [3] 5 to 9**
22 **Spaces**

- 23 [1.] If a property with a conditional use requiring [3] 5 to 9 parking spaces
24 is abutting Agricultural, Rural Residential, or Residential Detached
25 zoned property that is vacant or improved with an agricultural or
26 residential use, the parking lot must have a perimeter planting area
27 that:

- 28 a. satisfies the minimum specified parking setback under Article
- 29 59-4 or, if not specified, is a minimum of 8 feet wide;
- 30 b. contains a hedge, fence, or wall a minimum of 4 feet high; and
- 31 c. has a minimum of 1 understory or evergreen tree planted every
- 32 30 feet on center.

33 [2. The Hearing Examiner may increase the perimeter planting
 34 requirements for a conditional use application under Section 7.3.1.]

35 * * *

36 **Sec. 2. DIVISION 59-6.5 is amended as follows:**

37 **Division 6.5. Screening Requirements**

38 * * *

39 **Section 6.5.2. Applicability**

40 * * *

41 **B. Agricultural, Rural Residential, and Residential Detached Zones**

42 In the Agricultural, Rural Residential, and Residential Detached zones, a
 43 conditional use in any building type, except a single-family detached house,
 44 must provide screening under Section 6.5.3 if the subject lot abuts property
 45 in an Agricultural, Rural Residential, or Residential Detached zone that is
 46 vacant or improved with an agricultural or residential use. All conditional
 47 uses must have screening that ensures compatibility with the surrounding
 48 neighborhood.

49 [1.] The conditional use standards under Article 59-3 may exempt the
 50 development from this requirement.

51 [2. The Hearing Examiner may increase the amount of screening required
 52 for conditional use approval under Section 7.3.1.]

53 **C. Residential Townhouse, Residential Multi-Unit,**
 54 **Commercial/Residential, Employment, and Industrial Zones**

55 In the Residential Townhouse, Residential Multi-Unit,
56 Commercial/Residential, Employment, and Industrial zones:

57 1. A conditional use in a [detached house or] duplex building type must
58 provide screening under Section 6.5.3 if the subject lot abuts property
59 in an Agricultural, Rural Residential, or Residential Detached zone
60 that is vacant or improved with an agricultural or residential use.

61 a. The conditional use standards under Article 59-3 may exempt
62 the development from this requirement.

63 b. The Hearing Examiner may increase or decrease the amount of
64 screening required for conditional use approval under
65 Section 7.3.1.

66 * * *

67 **Section 6.5.3. Screening Requirements**

68 * * *

69 **C. Screening Requirements by Building Type**

70 * * *

71 **7. General Building with a Non-Industrial Use; Conditional Use in**
72 **the Agricultural, Rural Residential, or Residential Detached**
73 **Zones; and Conditional Use in a [Detached House or] Duplex in**
74 **Any Other Zone**

75 * * *

76 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
77 date of Council adoption.

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79 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council